



Customs Reform and Modernization Activities: Reforming Customs Brokers

AMIR II Achievement of Market-Friendly Initiatives and Results

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**Customs Reform and Modernization Activities:
Reforming Customs Brokers**

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Abstract

Jordan's customs administration has undergone substantive reforms over the last five years. Jordan has a reputation as a stable country in a rough neighborhood. In terms of customs practice, the peer customs administrations in the region recognize the Jordan Customs as the most advanced. The Middle East and North Africa (MENA) national customs administrations repeatedly have selected Jordan as their regional representative to the World Customs Organization (WCO). However, Jordan Customs (JC) still suffers from many of the stagnating factors slowing reform of Government in Jordan (GOJ), principally an obsolete civil service system and pay system. Within the client base of Jordan Customs, the clearing agents have been the strongest opponents to change. They have raised objections to following WTO valuation requirements, Jordan Customs' recognition of authorized economic operators, and implementation of a free-of-charge Internet system identifying all government regulations applied at the time of import, export, or transit. This report documents the legal status of Jordan's customs clearing agents, international systems for the profession of customs brokers, and recommendations for reforms for the further development of the industry in Jordan, shifting from generally unskilled clearing agents to highly competent, professional customs brokers.

Abbreviations and Acronyms

AMIR	Achievement of Market-Friendly Initiatives and Results Program
ASEZ(A)	Aqaba Special Economic Zone (Authority)
CBP	U.S. Customs and Border Protection
CITS	Customs Integrated Tariff System
CRM	Customs Reform and Modernization
DG	Director General
GOJ	Government of Jordan
JCCAA	Jordan Customs Clearing Agents Association
JC	Jordan Customs
MENA	Middle East and North Africa
PSPI	Public Sector Policy Initiative
USAID	United States Agency for International Development
WCO	World Customs Organization
WTO	World Trade Organization

Table of Contents

Data Page	ii
Abstract	iii
Abbreviations and Acronyms	iv
Table of Contents	v
Executive Summary and Recommendations	1
Recommendations	3
1. Background and Objectives of Consultancy	7
2. International Practice for private sector clearing agents	8
3. Current Jordan clearing agent regulatory environment	12
4. Summary - Comparative analysis Jordan's trading environment and clearing agents: now and future	20
5. Moving Forward	22
Attachments	25
A. "Revised Kyoto Convention, General Annex, Chapter 8"	
B. "US Customs Broker Handbook", US Customs and Border Protection	
C. "New Roles for Customs Brokers in the International Supply Chain", July 2005, TLOG Conference	
D. "Compliance of third party declarants", HM Revenue and Custom, November 2005	

Executive Summary and Recommendations

The Jordan Customs (JC) has benefited from both phases of the USAID-funded AMIR Program. The long-term commitment of USAID funding recognizes that the customs administration, as the primary gatekeeper at the border, is a ‘make or break’ agency in promoting international trade, processing of persons, and security of a nation, particularly in a troubled region.

At the request of the Director General of the Jordan Customs, the Customs Reform and Modernization team of the AMIR Program has conducted a survey of international practices dealing with the regulatory relationship between customs administrations and customs brokers or clearing agents. The survey confirmed that this relationship contains a very high degree of variability among countries. At one end of the spectrum is a completely unregulated industry where the customs broker may be a chimney sweep or goat herder one day and a customs broker the next. At the other extreme, some administrations demand that only a licensed customs broker file all declarations for import, export, and transit to customs. Other countries choose a middle ground, in which the customs brokers are subject to very high requirements for testing and licensing and are the only persons authorized to act on behalf of another person¹, but declarants are still free to act on their own behalf in their relations with the customs administration. Depending on the external factors—such as the licensing of traders themselves, maturity of the international traders in the country, national culture, levels of penalties or sanctions for non-compliance, and levels of corruption within the country—all of these variants work to some degree of success. What works in one country will not work as well in another.

The CRM customs experts also took a serious look at the current state of affairs of the relationship between the customs clearance industry in Jordan and the Jordan Customs. The report also examines the wider impact of the role of clearing agents in the whole of Jordan to include the separately regulated territories of Jordan proper and the Aqaba Special Economic Zone (ASEZA). The review covers the current legal and regulatory environment for clearing agents in Jordan. Additionally, as Jordan considers moving to an online, paperless declaration process, the consultants review the implications of working in this new Internet environment, where physical presence relative to the work performed takes on new meaning. The current licensing procedures and role of clearance agents must change for the new automated system to be effective.

The review of the clearing agent industry confirms that there has been some progress towards developing higher competency standards within the clearing agent industry over the past years, but the progress has been slow and unfocused. Strong negative factors are impeding further progress, and reforms must consider these factors as a whole to implement the changes necessary to produce competent clearing agents regardless of regulatory scheme that is chosen. The negative environment includes:

¹ Person as referenced in this report means either a physical person or a legal entity such as a business.

Customs Reform and Modernization Activities: Reforming Customs Brokers

- Weak penalty schemes in Jordan that are more concerned with inconsequential error that permits individual customs officers to collect incentives in the form of additional pay;
- No clear definition of responsibilities between clearing agents, traders, and Jordan Customs;
- A legacy system based on an incestuous relationship between customs clearing agents and customs officers and;
- A regulatory environment within the existing customs law that appears to have a primary objective of protecting the existing clearing agents rather than their clients or the Government of Jordan.

The current state of the Jordan clearing agents is steeped in the traditional business practices of Jordan that in many ways are out of alignment with the “international” business culture of today. While reforms of the relationship between clearing agents and their clients and Jordan Customs must aim to integrate Jordan into the global trading community, the culture of Jordan must also be taken into consideration. Unfortunately, the international business culture and the traditional culture of business practices in Jordan often conflict. Wasta, or business based on personal relationships or family ties, is still pervasive in Jordan, and this way of doing business is entrenched in the clearing agent industry. The steps forward will not be easy, and the well-organized clearing agents have historically put up strong resistance to change. How far Jordan can change at this time is up to Jordan. However, just as the regulatory environment for the trucking industry in Jordan has made significant changes, so too must changes proceed in the clearing agent industry.

Recommendations

1. Select a strategic model for the regulatory environment for Jordan's Clearing agents most appropriate for the Jordan situation.

Basis – The Current Licensing structure for customs clearing agents is clearly not working and appears to be geared towards protection of the incumbent clearing agents rather than meeting the needs of a modern customs administration or international traders. As acknowledged in the report, there is no set international best practice. Two alternatives, radically different in approach, seem most appropriate for Jordan to shake off the legacy problems. On one hand, the industry could be completely deregulated and open the field to all competitors. This approach must strongly encourage and support voluntary compliance schemes in which Jordan Customs actively supports the clearing agents that are on the Golden List. Demonstrated competence must be highly rewarded. Those clearing agents that have not agreed to participate in the Golden List are unknown/high risk entities. The alternative would be tightening testing and certification under mandatory regulatory requirements. The Jordan Customs, in consultation with business stakeholders, including existing clearing agents, importers, and exporters, must choose the appropriate model for Jordan in terms of the degree of mandatory regulation.

Action –. The Jordan Customs should host workshops open to all stakeholders, including clearing agents and international traders, to determine their opinions on the regulatory environment for clearing agents. In regulating the clearing agent industry, Jordan Customs should listen to primarily two voices, those of government and the users of the clearing agent services, rather than the clearing agents themselves.

2. Create competency requirements for all clearing agents including those previously licensed.²

Basis - Inept clearing agents represent JC's most critical problem in terms of the quality of the customs declaration process. Modern customs practice relies on accurate self-declaration processes, through which customs administrations may routinely accept declarations without a need for further modification. Modern clearing agents or customs brokers are highly competent professionals relied upon by both their clients and government. The level of technical skill of a modern customs broker is comparable to that of a lawyer or engineer. This is not the general state of affairs in this industry in Jordan. With a few exceptions, Jordan's customs clearing agents are the weakest link in the supply chain.

Action – A) The Director General of JC issues a directive to all customs officers, with a copy to the Jordan Customs Clearing Agents Association (JCCAA), requiring that as of 60 days from the date of issuance, customs officers are forbidden from accepting incomplete declarations from any clearing agent. B) Modify licensing of all clearing agents to assign levels of service available from established clearing agents based on historical records and past performance.

(Note – Point B of Recommendations Two through Five assumes that Jordan will not take the option of completely deregulating the clearance agent industry.)

² Recommendation one is repeated from a previous AMIR Report, "Customs Reform and Modernization Activities: Interim Report, July 2003 to November 2005" January 2006 by Walter Hekala

3. Conduct a review of customs clearance licenses for both company licenses and individual licenses for contemporary use by the licensee.

Basis – Licensing as a custom clearance agent in international practice is a privilege based on meeting current requirements, not a right for eternity. Licenses are issued based on conditions at the time of the license issuance. Customs clearance requirements are a frequently changing business practice. Modern practice in almost all professional fields now recognizes that licensing needs must reflect current capacity to meet current requirements in order to respond to changing advancements in the field. This concept conflicts with prevailing culture in Jordan, where even a driving license, once issued, is a right for the life of the license holder. At the absolute minimum, active participation in the professional field is an indicator of staying current in competencies.

Action – A) The Jordan Customs will conduct a review of all currently-issued company and individual licenses for historical usage. B) The Jordan Customs will modify regulations to include a provision that Customs will revoke inactive licenses. This provision for revocation should be the last step of the restructured licensing levels developed under Recommendation Two, point B. The recommended minimum period for non-use by the licensee is one year for a company license and two years for an individual license.

4. Create a new class of licensee - a professional customs broker.

Basis – The Jordan Customs currently has two classes of individual licensee: manager and clearing agent. The manager license requirements are not technically stringent enough to meet the requirements for a highly qualified technical expert, and the clearing agent license only meets minimal standards for what would, in other countries, be called a broker's runner. The steps for training and licensing have definitely started in the right direction. However, the Jordan Customs created an overabundance of clearing agents without creating a stringent testing requirement.

Action: - Create a new class of a professional customs broker license. The new professional customs broker license would require periodic re-certification, suggested at every three years. As a first step, the JC could hold a contest where existing clearing agents could sit for a very difficult, technical examination on a voluntary basis. Those individual clearing agents achieve the top scores on this examination should receive both financial prizes and national recognition. The individual recognition can be a subset of the Golden List. This testing will give a better assessment of the actual comparative quality of the clearing agents in Jordan.

5. Resolve issues of clearing agent licensing to a single licensing regime for all Jordan, including ASEZA.

Basis – Jordan is moving to an environment of full electronic declarations. The physical location of the clearing agent business can be anywhere in Jordan.³ In modern business practice, the consolidation of highly qualified specialists (as is suggested in

³ As with the location of clearing agent experts the Jordan Customs in the Organizational restructuring should consider where to place the experts that review the customs declaration for technical accuracy for tariff classification, valuation, and origin. The findings from the front line inspection need not be reviewed for non-compliance with technical compliance regulations at the point of clearance.

Recommendation Four) in the declaration preparation is more cost effective from a single location. At the same time, the separation of the licensing requirements between Jordan proper and ASEZA places Jordan at security and competitiveness risks where the international trade regulatory environment is based on artificial layers.

Action – Resolve all issues of licensing and testing of customs clearing agents on the national level for consistency and interoperability between Jordan and ASEZA. As a first step, individuals within each agency should meet and work together to produce a plan for the issuance of a single license covering clearing agents in both entities. Further, the test of clearing agents should be a national test. Jordan Customs and ASEZC should consolidate clearing agent testing and licensing within the work breakdown structure of the planned ASYCUDAWorld Project.

6. Review and strengthen the definitions of the role of clearing agents.

Basis – The roles and responsibilities of the clearing agents and their clients are ambiguous within the current regulations. Ambiguity of responsibilities leaves room for individual interpretation of where liabilities fall when customs finds non-conformance, and this ambiguity in regulation interpretation paves the way for corruption. Whether the clearing agents are licensed or not, Jordan Customs has a responsibility to define their role and responsibilities clearly.

Action – A) Strengthen the legally defined relationship between clearing agents and their clients through a Power of Attorney requirement, meaning that the clearing agent is legally acting on behalf of the importer and the statements to Jordan Customs are those of the importer. The POA establishes the basis of joint and severable liability that is already clearly defined in the Jordan Customs Law, and this point of law is addressed further in Recommendation Seven.

7. The Jordan Customs laws clearly establish the principle of joint and severable liability, and this provision should be used to the fullest in cases where clearing agents contribute to the violation through professional negligence.

Basis – Whether the Jordan Customs proceeds down the line of an unregulated industry or a tightly regulated industry, the Jordan Customs Law clearly includes provisions for joint and severable liability. Whether licensed or unlicensed, the clearing agents in Jordan must be held to high standards of accountability for exercising due diligence in the performance of their duties. As professionals, failure to act in a highly professional, technically competent manner places both their private sector clients and the Government of Jordan at risk. Under the current Jordan Customs law, the customs brokers (clearing agents) could be held jointly liable with their clients for incorrect declarations. As the private sector technical experts, customs brokers have a high responsibility for documenting that they have exercised due diligence in the submission of correct information to Customs. In practice, the Jordan Customs Department does not exercise this authority to the extent previously recommended by the AMIR consultants. Under the current practice of tolerance for incompetent brokers, there is little motivation for improvement within the brokerage industry in Jordan

Action – A) The Jordan Customs should develop, with external technical assistance if required, a checklist of minimal professional standards that Jordan Customs expects of clearing agents in the performance of their professional duties. B) In the absence of clear

and compelling evidence that the clearing agent and the clearing agent company met those minimal standards, the Jordan Customs should routinely issue all penalties following a joint and severable formula to both the importer and the clearing agent. In a petition process, each side can then demonstrate that they exercised due diligence.

8. The Jordan Customs Law must be modified to make penalties for violations a meaningful deterrent to protect honest traders from unfair competition.

Basis – The CRM consultants have repeatedly raised the issue of the lack of quality of the penalty schemes in the Jordan Customs Law and secondary regulations. This includes the provisions for violations by customs clearing agents and the general provisions for discovered violations. Illustrative of this statement are Article 168 of the Law on Customs which includes such ambiguities in terminology as “... disciplinary penalties, commensurately with the offence....,” with no secondary regulation defining the level of culpability, definitive listing, or expected consequences for violations. This ambiguity leaves both the regulator and the regulated in a quandary, where individual interpretation creates opportunities for resolution based on individual relationships. A second example is Article 200 of the Law on Customs that sets penalty levels at fines between 25 to 100 JD when a customs official discovers “declarations which are inconsistent with the documents enclosed therewith, in which case the fine shall be levied against the declarant.” Article 200 is terribly abused in the issuance of minor penalties for inconsequential errors, the root cause being the collection of “incentives” by the individual customs officer discovering the violation.

Action – A) The Jordan Customs, in consultation with the international traders and the clearing agents, defines by secondary regulation the consequences for not meeting the minimal standards to be developed according to Recommendation Seven. B) Define by interpretive regulation “inconsequential error” as applied to Article 200 of the Law on Customs. For example, in issuing the penalty the Jordan Customs must defend the position that the error affected the agency’s performance of its duties or resulted in loss of revenue (not loss of penalties) to the Government. C) Rewrite the penalty provisions to make penalties both meaningful and relevant to the violation. For example, Customs could increase penalties for non-compliant declarations based on defined levels of administrative penalties, with lower level penalties for the loss of revenue, such as two times the loss for simple negligence, higher levels for defined gross negligence, and forfeiture or penalties equal to the value of the goods for intentional fraud. Strengthen penalties for facilitation of the offense to include forfeiture of vehicles used in smuggling attempts. Create criminal provisions within the Jordanian law for the knowing and willful submission of false information to the Government in important matters such as a customs declaration or application for a license.

1. Background and Objectives of Consultancy

At the request of the Director General (DG) of the Jordan Customs (JC), the Customs Reform and Modernization (CRM) consultants of the AMIR Program prepared this report specifically on the topic of customs clearance agents in Jordan. The objective of the consultancy is to assist the JC in defining steps to modernize the clearance agent business practices in Jordan, to keep step with the modernization of the Jordan Customs.

The Jordan Customs has made significant progress on reforms over the life of the USAID-funded AMIR Program. Relatively speaking, the CRM technical experts in customs matters by consensus informally rank Jordan Customs as at least in the top one-third of all customs administrations regarding technical capacity. The clearing agents in Jordan, however, are generally not in step with the progress made by the Jordan Customs. With some notable exceptions, both the Jordan Customs and the Aqaba Special Economic Zone Customs view clearing agents as a root cause of many problems. The clearing agents lack both technical capacity and, according to antidotal reports, seek additional payments from their clients allegedly to pay bribes to customs officers to expedite shipments. Whether the money ends up in the pockets of the clearing agents or they do indeed pass bribes on to customs officers, either situation is unacceptable.

This report identifies the state of play of clearing agents or customs brokers in the international trade arena. Interestingly, there is no set formula or consensus of international best practice as to the regulatory environment for customs brokers. Each country sets its own standards. This report will attempt to identify some of the common points between each level of the regulatory environment and identify where those levels have been appropriate for the business environment. The report also looks at the current state of the clearing agent industry in Jordan. Finally, based on the unique business environment in Jordan, and looking forward to where the Jordan Customs roadmap of reforms is leading, the report suggests steps that Jordan Customs, with the consideration of external stakeholders, should take immediately and in the longer term to protect the investments Jordan is making in developing international trade.

2. International Practice for private sector clearing agents

2.1. Definition of Clearing Agent / Customs Broker

The terms “customs clearing agent” and “customs brokers” are generally interchangeable within the context of customs practice. Within the revised Kyoto Convention (KC) the term used is “third party.” The KC definition for third party is “...any person who deals directly with the Customs for and on behalf of another person, relating to the importation, exportation, movement or storage of goods.”⁴ The relation of the customs administration with third parties is covered under the revised Kyoto General Annex in Chapter 8, “Relationship Between the Customs and the Third Parties.” Chapter 8 of the general annex lays down seven mandatory standards for customs administrations when dealing with third parties.⁵ Those outside the international trade field, on reading the standards, may question why they are non-specific. The answer is that a number of formulas have evolved relative to the relationship between customs administrations and clearing agents, all of which can be successful. The two main points of variance are the degree of regulatory control the customs administrations has over the customs broker and the degree to which traders must use the services of a customs broker in transactions with customs.

Professional customs brokers and customs administrations define a customs broker as:

- “The customs broker is a highly-trained import professional.”⁶
- “The customs broker is a highly knowledgeable professional.”⁷

The traditions services offered internationally by customs brokers include⁸:

- Product classification
- Export trade compliance
- Import trade compliance
- Trade documentation
- Landed cost calculation
- Duty/tax drawback
- Record-keeping on clients’ behalf
- Compliance audit
- Management reporting

In other countries, the role of the customs clearing agent is more informally defined by the role they play in the custom clearance process. They are the “fixer” or the go between for the payment of bribes to corrupt customs officers.

⁴ Revised Kyoto Convention, Chapter 2, Definitions.

⁵ Revised Kyoto Convention, General Annex, Chapter 8, attached as Appendix A

⁶ National Customs Brokers and Freight Forwarders Association of America,
<http://www.ncbfaa.org/broker.htm>

⁷ US Customs Broker Handbook, US Customs and Broker Protection, attached as Appendix B

⁸ “New Roles for Customs Brokers in the International Supply Chain”, July 2005, TLOG Conference, attached as Appendix C

2.2 Role and regulatory environment

A highly enlightening 2005 survey⁹ of professional customs brokers identified modern, successful customs brokers see changes coming in their industry. The survey characterized the degree of variance in regulation as ranging from not requiring any license for performing brokerage services to mandatory use of a licensed customs broker for the three customs regimes of import, export, and transit.¹⁰ The analysis of the regulatory environment for customs brokers country by country would likely produce an inconclusive scatter chart with the degree of the regulatory environment on one axis and the general success of the nation's customs administration on the other axis. However, it is possible to draw the general conclusion that the less the customs brokers are regulated, the more the traders themselves are regulated. Traders may be regulated either based on a strong history of self-regulation or through mandatory licensing schemes. In an environment where there is no mandatory licensing of customs agents or brokers, the common factors of customs practices that are mature and relatively successful can be summarized as follows:

- Higher regulation of traders by government.
- Severe penalties for violations.
- Industry self-regulation by clearing agents.

Even in a country that has a strong history of self-regulation, such as the UK, declarations to the customs administrations may have an unacceptable level of variance. In an internal review by the UK HM Revenue and Customs published in November 2005¹¹ the findings were that 85 per cent of entries (declarations) were completed by agents or third parties. Of those declarations:

- “19 per cent of declared values were incorrect¹²
- 20 per cent of commodity codes were incorrect
- 14 percent of declarations did not agree with the actual weight/packages actually exported
- 20 percent of all exports for the UK are declared as being for private (PR) or unregistered (UNREG) traders.”

Among the customs administrations that regulate and license customs brokers, the degree of the regulation requirements also varies considerably. In some countries, the licensing is more a pro forma process of fee payment and registration, while at the other end of the spectrum, some countries require criminal background checks of both companies and individuals, proof of solvency, and stringent testing of applicants. In one country where the consultant worked, the customs administration issues licenses for customs brokers,

⁹ “New Roles for Customs Brokers in the International Supply Chain”, July 2005, TLOG Conference, attached as Appendix C

¹⁰ While the survey only covers the primary three customs regimes of import, export and transit, an assumption is the same requirement would apply to the other customs regimes such as temporary import or export, or further manufacturing in a free zone.

¹¹ “Compliance of third party declarants”, HM Revenue and Custom, November 2005, Attachment D

¹² Declared value at time of export is a critical issued in a VAT system. VAT fraud by mis-declaration is one of the more common types of VAT fraud.

Customs Reform and Modernization Activities: Reforming Customs Brokers

but individual customs officers and the individual customs brokers have developed an informal relationship for their mutual benefit. According to multiple sources, the importer negotiates “his deal” with the individual customs officer doing the customs clearance, and the customs officer then directs the importer to a specific customs broker for the completion of the declaration. The broker’s primary function is completing the customs declaration and entering it into ASYCUDA, charging a substantial fee for the service. The individual broker is an informal business partner with the customs officer.

The United States is an example of country that has a strong regulatory environment for the licensing of customs brokers. Likewise, the United States has a strong tradition of very highly qualified customs brokers. Under the U.S. system, both individuals and companies are licensed. The requirements for companies include the presence of individually licensed customs brokers responsible for the supervision of other employees. As an anecdotal reference to the rigors of the U.S. Customs brokers’ examination, many retired or former customs officers routinely fail this examination. The U.S. Customs and Border Protection (CBP), as well as the clients of the licensed US customs brokers, are well served by this system. Revenue collection by CBP and its predecessor agency the U.S. Customs Service is verified annually as exceeding 99 percent of applicable duties, taxes, and fees legally owed to the U.S. Government. CBP collects over 99 percent of the revenue through voluntary compliance. This collection is due in large part to the customs brokers that serve as highly qualified technical experts. Customs brokers in the U.S. also carry a heavy burden to exercise due diligence or reasonable care in both advising their clients of requirements of the laws and regulations and gathering accurate information from their clients. Customs brokers share a joint and severable liability¹³ with their clients.

The final aspect of the regulatory environment that varies among countries is the mandatory requirement for traders to use a customs broker. It ranges from completely mandatory for all import, export, and transit declarations, as is the case in Mexico, Japan, India, and Columbia, to optional, as is the case in the U.S., Canada, and Sweden.

Requiring mandatory use of a customs broker has both advantages and risks. It may guarantee the technical quality of the declaration, but again, if the trader provides false information to the broker, the declaration can still be false. The mandatory provision can also have a strong negative effect in the country where corruption is prevalent, as it can be another source of rent-seeking for customs where it grants a limited number of licenses to the highest bidders. Mexico is an interesting case of a country that requires the use of the customs broker for filing the declaration, and which also has a history of corruption. Mexico has developed a strong system of checks and balances, establishing a process whereby the customs brokers in one region and those in another, along with the

¹³ Joint liability means that both the importer and the customs broker are liable for penalties for an incorrect declaration. Severable liability means that the liability can be severed, or cut, if one party is found to have exercised due diligence. This places a burden on the broker to act as a true professional and at the same time protects the customs broker where the client provides false information to the broker. The broker’s job is to ask the right questions and make sure to inform their client of the law and the consequences for failure to provide truthful information. The professional broker will document this exchange of information with their client.

Customs Reform and Modernization Activities: Reforming Customs Brokers

Mexican Customs, review the work of their colleagues. Where payment of “la mordida” (the little bite) was once the standard operating procedure to pass through customs, this process of review has significantly reduced corruption. While modida payments are still prevalent in other regulatory controlled practices in Mexico, colleagues in the customs consulting business have offered anecdotal reports that international trade cultural practices are now the norm rather than the exception.

The system of leaving the option available for a trader to transact business on their own behalf directly with customs reduces the risk of corruption in the issuance of broker licenses. At the same time, restricting third party declarations to only licensed, tested, and highly qualified customs brokers ensures a relative certainty of the quality of the service provided for both the customs and the trader client. The issue then becomes whether it is a wise choice to use a customs broker or not. In those countries with very highly qualified customs brokers, the prudent choice is to use the services of the customs broker, a technical expert. International trade and the role of customs administrations in securing the legitimacy of that trade are rapidly changing, particularly in modern trading countries. For an individual trading company to keep track of all the changes, understand the complexity of rules of origin, tariff classification, and WTO valuation methodologies requires full time personnel dedicated to this specialty. The technical knowledge of customs brokers is somewhat akin to legal expertise. In those very large companies that have in-house legal departments, having internal customs experts may make sense, assuming the companies are very large-volume importers or exporters (in this case, meaning they file ten or more customs declarations on a daily basis).

3. Current Jordan clearing agent regulatory environment

3.1 Legal Status of customs clearing agents under Jordanian legislation and regulations

The clearing agent is specifically regulated by the Customs Law No. 20 of 1998, and the regulations and instructions issued pursuant thereto. The Customs Law specifies the following:

Article 2:

*The **Declarant**: The person who prepares the customs declaration, or on whose behalf the customs declaration is prepared, and who is entitled to present the goods at customs and complete customs formalities.*

*The **Clearance Agent**: Every person who undertakes professionally, and according to the provisions of this Law, preparing and signing customs declarations and presenting declarations to the Customs Department and completing the required formalities for clearing goods on the behalf of others*

Articles 2 and 164 below can specify the conditions under which a person is entitled to act as declarant. It appears to be exclusive only to the owner of the goods (or his employee) or a licensed clearing agent to act as a declarant, not third parties acting on behalf of the owner, such as the carrier, consignees, importers of leased equipment, selling agents, etc., none of whom could be considered “owners.” This places the current practices in Jordan closer the model of mandatory use of the clearing agent.

Article 82:

A- Goods are held as a pledge for duties and taxes and shall not be withdrawn except after the completion of customs formalities and the payment of duties and taxes in accordance with the provisions of this Law.

B- Without prejudice to the principle of joint and several liability provided for in this Law, customs duties and other set duties and taxes shall be paid by the importer.

Article 82(a) indicates that the "importer" rather than the declarant is liable for payment of duty and taxes. (As indicated, under Article 164, a declarant is defined as the "owner" of the goods, or his employee, or a customs broker.) This means that the importer may be held liable under Jordanian law for duty and taxes with regard to a declaration that he may not have had any responsibility for preparing, (see article 200 below). This is inconsistent with the intention that the person who prepares the declaration shall be liable for duty and tax liability that arises out of it.

Title Ten

Customs Clearance Agents

Article 164: Declaration about goods at customs, and completion of customs formalities for imports, exports, and other customs statuses may be done by:

A- Owners of goods or employees thereof who meet the requirements set by the Director, including the terms of authorization.

B- Licensed customs clearance agents.

Article 165: The persons mentioned in the previous paragraph must submit a delivery order. The endorsement of the delivery order to the customs clearance agent or the owners employee shall be considered an authorization for completing the customs formalities. The customs Department bears no responsibility for the delivery of goods to the endorsee.

Article 166:

A- Without prejudice to acquired rights, customs clearance may be practiced professionally only by persons licensed by the Minister upon the Director's recommendation.

B- In the case of natural persons:

1- Agent must be a Jordanian citizen.

2- Agent must be at least twenty years old.

3- Agent must have completed secondary school or worked as a customs official in the Customs Department for 15 years.

4- Agent must have practiced customs clearance, or worked as a customs official for a licensed entity in the Kingdom, or provided a service classified by the Department.

5- Agent must be of good repute and conduct and must not be sentenced to any crime or misdemeanor against morals.

C- In the case of juridical persons:

1- Agent must be a registered Jordanian company.

2- The general manager or the managing partner, as well as the branch directors must meet the terms stipulated in paragraph (B) of this Article.

D- The Director may allow the licensed agent to hire one or more employees provided they meet the terms stipulated in paragraph (B) of this Article with the exception of items (2) and (4) thereof.

E- Applicants for a license to practice clearance must use the special forms designated for this purpose.

F- Upon the Director's recommendation, the Minister may grant the license, or deny it upon justification

G- A license fee of three hundred JDs shall be charged for the main office, and two hundred JDs for every branch.

H- The license shall be valid for a period of one year ending on the 31st of December, and renewable upon the Director's approval.

I- The license of a customs clearance agent shall be revoked entirely by a Minister's decision, if any of terms or qualification stipulated in this Article cease to be fulfilled.

J- The customs clearance agent must operate through an office and must obtain the required municipal permit.

K- 1- The Director may hold an annual competence exam for new customs clearance agents, and deny license if the exam is not passed.

2- The Director may issue the necessary instructions.

In pursuance to Article 166, Jordan Customs issued instructions No. 128 for the year 2005 regarding “Renew Clearing Agents Licensing” and instructions No. 1 for the year 2004 “Concerning Brokers Exams.”

One alternative, within the complexities of the Jordanian environment, for ensuring the compliance of the broker community with Customs requirements may be a competence-testing requirement. Ideally, testing should include periodic retesting, but given the culture in Jordan, one-time testing may be as far as the Jordan Customs can push the issue at this time. Jordan Customs may better regulate performance of clearing agents by adopting a comprehensive compliance plan covering informed and preventive compliance. Eligible and licensed clearing agent must have expertise in entry procedures, admissibility requirements, classification, valuation, and the rates of duty and applicable taxes and fees for imported merchandise, all of which could be evaluated through the Customs clearing agent examination. In connection with the comprehensive compliance plan, all clearing agents should be subject to competence examinations, including existing clearing agents, at least on a one-time basis. The plan should also allow for testing of clearing agents when their competence is in doubt. This will require a legislative change to Article 166(K) to read as follows:

1. “The Director shall hold a one-time competence examination for all customs clearance agents holding licenses at the time this law goes into effect, and suspend or revoke licenses if the test is not passed. The examination shall be held within 3 months after the date that this provision enters into force.
2. “The director shall hold a competence examination not less often than once a year for new customs clearance agents, and deny license if the test is not passed.
3. “The director may require an existing customs clearance agent to take a competence examination when competence is at issue, and suspend or revoke license if the test is not passed or the agent refuses or declines to take the test.
4. “The Director may issue the necessary instructions establishing directive national policies and operating procedures “

The application for a clearing agent should be reviewed at different levels. First, there should be a multi-agency background investigation that includes a fingerprint check and a review of character references, credit reports, and any arrest record. Second, the Customs center where the clearing agent wants to transact Customs business should review the results of the background investigation and any other pertinent information and forward a recommendation to Customs Headquarters. Finally, Customs HQ should evaluate the application and advise the applicant whether his or her application is approved.

Customs recently issued proclamation No. 32 for the year 2006 regarding “Standards for Classification of Clearing Companies,” which classifies clearing companies according to three categories, First, Second, and Third, based on the following standards:

Customs Reform and Modernization Activities: Reforming Customs Brokers

- The capital of the clearing company (50K JDs, 20K JDs, less than 10K JDs respectively)
- Bank guarantees amount
- Number of the main branches or offices (five, three and one respectively)
- Number of employees and their qualifications (twenty, ten of which have BA; eight, two of which have community college degrees; and four employees).
- Number of declarations (1000 import + 2000 transit declarations, 500 import + 1000 transit declarations, and 500 declarations) and
- Performance of the company and evaluation from customs and association.

Article 167:

A- The customs clearance agent shall be responsible towards the consignees, the Department, and investors in storehouses, warehouses and free zones, for the actions of the agents' employees, and shall provide the employees with authorizations prepared in accordance with the provisions of this Law, which authorization shall be deposited with the Department.

B- A license applicant shall submit a bank surety in the amount set by the Director, but which shall not be less than 5,000 JD, as a guarantee against liabilities that may result from the actions of the licensee or of the employees thereof. The Director may set the surety at a higher amount.

Article 168:

A- The customs clearance agent may be subject to any of the following disciplinary penalties, commensurately with the offense and as determined by the Director:

- 1- Written notice*
- 2- Written warning*
- 3- Suspension from work for a period not exceeding six months.*

B- The agent may be removed from the list of customs clearance agents and may be barred from practice permanently, by the Minister, and upon the Director's recommendation, in the following cases:

- 1- If the clearance agent is penalized by a written notice or warning three times or more;*
- 2- If the clearance agent is suspended from work more than two times within four years;*
- 3- If the clearance agent is sentenced in a crime or misdemeanor against morals.*

Article 168 gives clear authority to suspend or cancel licenses of clearing agents. Such authority is implicit for other licenses. License rights usually require a notice and hearing procedure. Customs should invest the time and effort to proceed through notices and hearings to prevent future violations by suspension or cancellation of licenses, particularly in the case of persistent violations.

Article 169:

By the Minister's approval, the Director may issue instructions specifying:

A- The number of clearance agents allowed to practice at customs houses.

B- The customs house or houses at which clearance agents may practice.

C- Customs agents fees.

D- Customs clearance companies may establish unions as dictated by public interest and subject to the Minister's approval.

Customs should consider deregulating the activities addressed in Article 169—specifying the number of clearing agents, the locations at which they are authorized to do business, and the amount of their fees—and instead leave these matters to the marketplace. The Customs should reserve the right to intervene to conduct disciplinary action or remove a clearing agent from practice when market forces fail or agents engage in fraud against clients, deceitful practices, or anti-competitive practices. To implement these changes, Customs should work with the clearing agents association to emphasize the importance of improving the performance level of clearing agents in enhancing their role in the import process.

Article 170:

Customs clearance agents shall maintain summary records of all customs formalities carried out on behalf of others, according to the terms set by the Director. Agents who fail to maintain such records shall be subject to the penalty of suspension from practice. In particular, records shall be maintained of payments made to the customs Department, and to the clearance agent and of all other expenses on formalities. The Department shall have absolute authority to examine such records at any time, without the agent's objection.

Article 200: *Except for cases amounting to smuggling, the following offenses shall be subject to a fine of between 25 - 100 JDs:-*

A- Declarations which are inconsistent with the documents enclosed therewith, in which case the fine shall be levied from the declarant.

Article 200 holds the declarant responsible for the declaration's consistency with the supporting documents. In addition, as a matter of practice, Customs requires the declarant to sign the declaration under a statement that he is responsible for the accuracy of all information in the declaration. Article 200 does not give teeth to the penalties for real violations and at the same time gives customs officers the legal power to supplement their official salaries through the collection of incentives for the discovery of the violation. The whole issue of the incentives has been previously addressed in an AMIR report on pay reforms.¹⁴ The incentives program may be considered Jordan Customs' legalized system for the "the little bite" (mordida in Spanish). The reforms of penalty provisions and pay issues are collateral to the direct issue of clearing agent reforms.

¹⁴ "Customs Institutional Development: Roll-out of HR Training, Kenneth Donaldson, November 2005

3.2 Joint and severable liability

The Jordan Law on Customs clearly establishes the legal provisions for joint and severable liability. A report prepared by the AMIR Program in December 2003 concluded that the Jordan Customs has the full legal authority to put this provision of equitable responsibility into practice under the existing law.¹⁵ Where the application of the practice of equitable responsibility seemingly fails in Jordan Customs' current business practice is the lack of a clear definition of the relative responsibilities of the clearing agents and their clients. The relative responsibilities of the professional clearing agent and the client must therefore be examined.

CLEARING AGENT	CLIENT
<ul style="list-style-type: none">• Responsibility to inform client of the client's responsibilities• Solicit all needed information from the client• Expertly prepare the declaration including the technicalities of customs clearance• Tariff Classification of commodities• Valuation methodology and rules• Origin rules and related trade agreements• Consideration and compliance with all secondary agency regulations• Automated interface with customs systems	<ul style="list-style-type: none">• Gather all relevant information from exporter• Provide truthful information to clearing agent• Ensure due diligence in legitimacy of transaction such as intellectual property rights of the seller.

Also tied to the application of this principle is the lack in Jordanian legislation of a fundamental "truth law." In customs, as well as other regulatory environments that rely on declaration or information provided and in which validation of information is by exception, a key element is high reliance on the truthfulness of the information. The most effective way to inspire the submission of truthful information seems to be establishing serious consequences for failure to provide that truthful information. In the United States, for example, the knowing submission of false information to agencies of the U.S. Government regarding a material fact is a felony that can and does result in severe fines and incarceration in jail for as long as five years.¹⁶ This concept does not

¹⁵ "Legal Research on Voluntary Disclosure and Joint and Severable Liability" prepared by IBLA for the AMIR Program, December 2003.

¹⁶ The general false statement provision is covered under 18 United States Code 1001 while a specific custom offence for a false declaration falls under 18 USC 542. Both provisions are felony criminal statutes subjecting the person convicted to fines and incarceration of up to two years for 542 and five years for 1001.

seem to exist in the Jordanian legal system. In the U.S., even submitting false information in the application for a customs broker's license is punishable as a criminal offense.

3.2 Cultural and social factors¹⁷

Cultural and social factors have played a dominant role in shaping the role of customs clearing agents in Jordan. As illustrated in the legal history of the customs clearing agents in Jordan, these factors are the vestiges of an old system, making the industry an informal retirement supplement for customs officers and creating a historically incestuous relationship between the regulated industry and the regulator. While the system may work well where the underlying cultural methodology for customs clearance is *wasta*, it does not support Jordan's current need to integrate accepted world trading practices. *Wasta* is not a recognized valuation method by the WTO.

A second point of cultural impact appears to be clearing agents' deep-seated perception, likely reinforced by their experiences with the labor laws or employment culture in Jordan, that employment is a right, not a privilege. The clearing agents have objected to a number of changes in customs business practices, including:

- The introduction of WTO valuation methodology,
- Automation requirements (ASYCUDA);
- Customs introduction of the Golden List Program, as an authorized economic operator program as mandated by the accepting the standards of the WCO Framework of Standards to Secure and Facilitate Global Trade (SAFE);
- The providing of information to the public through the Customs Integrated Tariff System (CITS); and
- The introduction of insurance-based customs bonds.

Some of the above are understandable from an economic point of view, such as having to automate their operations, which causes additional costs, and the development of CITS, which competes with the Jordan Customs Clearing Agents Association's current practice of selling new regulations to its members. From an external viewpoint, other objections appear to be based on the perception that in receiving a license to act as a clearing agent, the holder is then entitled to practice business in the future in the same environment as when the Jordan Customs issued the license.

The whole concept of license holder rights in Jordan is "Licensed once, licensed for life." Even the test for a driving license in Jordan is a once-in-a-lifetime requirement. While terrible drivers in Jordan may be socially accepted and good drivers seem willing to pay the cost in higher auto insurance premiums, this concept clashes directly with Western regulation culture. Unfortunately, for Jordan to compete in an international business environment dominated by Western culture, it must make changes in its international

¹⁷ This section is not intended to infer a negative connotation on the cultural history of Jordan, a country rich in cultural heritage. The comments contained are intended to simply state observations. Jordan, like every other country in the world, is being engulfed by a new culture of international business practices.

trade practices, an area that is specifically impacted by the role of customs clearing agents.

3.3 The status of the industry

At the present, clearing agents in many cases are no more than form-fillers. They do not exercise any professional judgment and just write whatever their client tells them to on the declaration. Ultimately, the information should come from the client, however the broker is the one responsible for tariff classification. For example, if an importer tells the broker the imported goods are “raw materials,” that is how the broker describes the goods. This shows a lack of professionalism.

In 2005, according to the Jordan Customs, there were over 400 companies licensed as customs clearing agent companies in Jordan, employing over 3,700 individual clearing agents. Separately licensed to conduct business only in ASEZA, there were 167 companies with 241 employees. These numbers are extraordinarily high based on the fact that:

- The number of licensed clearing agents is more than the entire work force of both the Jordan Customs and the ASEZ Customs.
- The total number of customs declarations filed with Jordan Customs in 2005 was 328,756.
- The Jordan Customs Training Center trained and tested 657 new clearing new clearing agents in 2005. Of those tested, the pass ratio was over 95%. The industry seems to have an ever-increasing carrying capacity with little rationalization for the workload.

The numbers indicate that the average number of declarations per clearing agent company per day is approximately two declarations. This is indicative of a glutted industry.

4. Summary - Comparative analysis Jordan's trading environment and clearing agents: now and future

4.1 What is happening now?

The customs clearance industry is glutted with far more people than required according to licensing levels. Some steps, including the issuance of Customs Announcement 128 for the year 2005, have moved to curb the expansion. The JC bears the responsibility for contributing to this excess. Part of the cause is rooted in the history of the JC Training Center, which is still suffering from the vestiges of a prior management that turned the Training Center and the delivery of training into a personal income generator.¹⁸ At the same time, as the newly trained clearing agents are entering the work force, they have to compete for jobs within the companies created historically based on prior customs employment rather than competencies.

The Jordan Customs is hampered by multiple underlying causes for poor performance by the clearing agents. These include legal penalties that are not commensurate violations and are therefore not a meaningful deterrent. Customs violations, as with white-collar crime generally, are not serious offenses in Jordan, compared to more developed countries where violations result in appropriate fines or jail sentences. Lying to the Government, for example, is not a specified criminal offence in Jordan. The JC has the legal authority to issue joint and severable penalties to clearing agents but does not do so, partly because there is not a well-founded understanding of the advantages of having highly competent and honest clearing agents that act as an extension of Customs. At the same time, encouraging a high compliance rate is not currently in the interest of individual customs officers, who earn financial rewards when they discover violations.

A third and critical factor in Jordan is the separation of the Jordan Customs from the ASEZ Customs. Currently, both Jordan Customs and ASEZ Customs license clearing agents independently. This practice presents a hindrance to clearing agents and introduces additional risks. From the business standpoint, the separation requires additional costs. From the Jordan Government side, the lack of coordination presents an increased opportunity for customs violations to go undetected.

4.2 What can the future bring?

“New Roles for Customs Brokers in the International Supply Chain,” July 2005, TLOG Conference, attached as Appendix C, gives very helpful insights as to where the professionals in the customs broker profession see their industry heading. In a shrinking world where the linkages between both the businesses and the customs administrations in

¹⁸ Trainers within the Jordan Customs receive extra pay in incentives for the delivery of training. The current director of the JC Training Center is making admirable efforts to curb the abuses that occurred previously. In our opinion, the continued cranking out of new licensed clearing agents is a vestige of the previous training center management.

countries are increasing, Jordan has two choices: be part of the linkages or suffer the consequences.

Jordan, as an internally fragmented country divided between Jordan Customs and ASEZ Customs, presents both an impediment to international trade and a security risk to itself and other countries. From the business viability side, Jordan can continue to either maintain the status quo in the future or consolidate the clearing agent licensing and practices between the two entities. For example, why should a clearing agent company not be able to have a highly qualified technical expert based in the Amman office who can assign the proper tariff classification to commodities in a shipment destined for Aqaba?

Jordan's clearing agent companies can also offer a higher level of the traditional services of customs brokers previously identified, as well as in the future offer services that international leaders in the industry see as the future of their profession. These include¹⁹:

- Logistical Services
 - Warehouse management and distribution
 - Arranging international transportation
 - Managing reverse logistics
- Consulting Services
 - Trade consulting services
 - Free zone consulting services
 - Legal services
- Intermediary
 - Intermediary in financial products
 - Intermediary in insurance products
 - Services in behalf of other brokers
- Inspection
 - Product validation services
 - Physical inspection services
- Other
 - Trade automation services
 - Managing supply chain security

In terms of the regulatory environment, two alternatives of what appear on the surface to be radically different regulatory levels are possible. These are discussed in the following section.

¹⁹ "New Roles for Customs Brokers in the International Supply Chain", July 2005, TLOG Conference, attached as Appendix C

5. Moving Forward

5.1 Short term

5.1.1 Regulatory level selection

Whether Jordan should tighten regulation or deregulate the industry should be a topic of open discussion with stakeholders. In either instance, Jordan Customs can play a significant role in the critical element of recognizing competent brokers. Under a deregulated environment, the best option would be for the Jordan Customs to take full advantage of the Golden List Program designed to meet the WCO Framework of Standards. The Jordan Customs could offer serious incentives to clearing agents that can meet the rigorous Golden List requirements including:

- Alternative record keeping requirements
- Front of the line services
- In the ASYCUDAWorld/Internet, the option of lease line direct connection to the ASYCUDAWorld server
- Recognition as a “National Clearing Agent” with the ability to file declarations for any customs office from a central office for electronic filing
- Reduced filing customs charges for filing declarations
- Alternative security requirements

These same benefits for Golden List clearing agents can also be offered in the regulated environment.

The Jordan Customs should conduct an audit of both the individual clearing agents and the companies. If the license holder is not using the license, the license holder is not current on customs business practices. The Jordan Customs can modify the regulations to add a mandatory use requirement. It should cancel the licenses of companies that have not used their license for one or maximum two years and should likewise cancel the licenses of individual clearing agents not actively using their license. In both cases, the license holder must reapply and be subject to retesting.

An impending change that will affect clearing agents is the introduction of ASYCUDAWorld into Jordan. Customs clearing agents or importers will file declarations via the Internet or in an “Internet like” environment.²⁰ Clearing agents will need to increase their level of automation sophistication, and their reaction to this change, based on their history, is predictable. At the same time, the concept of the Internet environment can completely change the current practice of having clearing agents located at the examination site. The declarant can be virtually any place in the world. Additionally, subject to the provisions in the now seriously stalled legal reforms, the declaration and all supporting documents can be filed electronically. The clearing agent’s need for security and compliance in the Internet filing environment and the

²⁰ The actual filing of the declaration may never go up to an internet level and based on the discussions at AMIR we believe it will be far less costly to go through a local service provider only or in some instances for the very largest customs clearing agents directly by lease line into the ASYCUDAWorld server.

government's corresponding obligation to ensure the compliance of the clearing agent must increase. Failure to do so carries all the makings for the plot of a disaster film turning to reality. As the ASYCUDAWorld automation comes online, it will present an excellent opportunity for the Jordan Customs to set new standards and review clearing agent companies against those standards. The introduction of ASYCUDAWorld could also open the opportunity for the largest firms qualifying to do so to move to a fully paperless declaration process. This phased approach to who can file can build around an increased advantage for the JC Golden List clients.

Another immediate step the JC could initiate is to sponsor a contest among the customs clearing agents where they would sit for a very difficult test covering the full technical capacity for a highly qualified customs broker. This contest would have two results. First, it would identify the level of the qualifications of the best clearing agents in Jordan, and second, it would set the stage for a mid-range suggestion of instituting a requirement for companies to have highly qualified customs brokers on staff. This could tie in to a Golden List concept.

5.2. Mid range measures.

At the same time that the quality of the clearing agents is increased by attrition of the incompetent, the ability of Jordan to effectively trade internationally will increase. One proposed solution is categorizing clearing agent companies relative to size or volume of transactions. In a flooded market, as increased technical and regulatory compliance increases, smaller firms will become less competitive, reducing redundancy. A more effective process for the reforms may, if Jordan Customs chooses, follow the model of a customs broker industry with highly regulated licensing for customs brokers. For example, requiring a company to employ one or more individual customs brokers whose qualifications follow stringent guidelines will eliminate those companies that do not bring such an expert into their service. It would be similar to requiring trucking companies to have equipment that could actually pass safety and environmental standards. This new licensed position will be a follow-on to the voluntary contest testing proposed as an immediate step.

Another step related to size and volume licensing requirements is also directly tied to the ASYCUDAWorld project. In an electronic environment, the technical experts preparing the declaration within the clearing agent company can and should work out of a central office. The Jordan Customs can, like other customs administration such as the U.S., open up a new class of company-level clearing agent licensing, the "national customs broker." This will be an opportunity for the largest companies that are qualified to offer services at any location where they also have a physical presence. The national-level broker is a benefit to both the Jordan Customs, ASEZ Customs, the license holder, and the license holder's clients. This step will, of course, be dependent on recognition of the Jordan national license by both JC and ASEZC. Under this scheme, the nation-level clearing agent license holder must still maintain a physical presence and personnel at the customs offices serviced, but the actual declaration may be prepared and submitted electronically from the central office. The physical presence requirement serves only to meet the

Customs Reform and Modernization Activities: Reforming Customs Brokers

physical inspection requirements, if needed. Where electronic declarations are the norm and physical inspection is by exception, the need for a clearing agent at the point of examination is eliminated.

Attachments

- A. Revised Kyoto Convention, General Annex, Chapter 8, attached as Appendix A
- B. US Customs Broker Handbook, US Customs and Broker Protection
- C. New Roles for Customs Brokers in the International Supply Chain”, July 2005, TLOG Conference
- D. Compliance of third party declarants”, HM Revenue and Custom, November 2005

Attachment A revised Kyoto Convention

CHAPTER 8

RELATIONSHIP BETWEEN THE CUSTOMS AND THIRD PARTIES

8.1. Standard

Persons concerned shall have the choice of transacting business with the Customs either directly or by designating a third party to act on their behalf.

8.2. Standard

National legislation shall set out the conditions under which a person may act for and on behalf of another person in dealing with the Customs and shall lay down the liability of third parties to the Customs for duties and taxes and for any irregularities.

8.3. Standard

The Customs transactions where the person concerned elects to do business on his own account shall not be treated less favourably or be subject to more stringent requirements than those Customs transactions which are handled for the person concerned by a third party.

8.4. Standard

A person designated as a third party shall have the same rights as the person who designated him in those matters related to transacting business with the Customs.

8.5. Standard

The Customs shall provide for third parties to participate in their formal consultations with the trade.

8.6. Standard

The Customs shall specify the circumstances under which they are not prepared to transact business with a third party.

8.7. Standard

The Customs shall give written notification to the third party of a decision not to transact business.

Attachment B – US Customs Broker Handbook, US Customs and Border Protection

**Attachment C - New Roles for Customs Brokers in the International Supply Chain”,
July 2005, TLOG Conference**

**Attachment D - "Compliance of third party declarants", HM Revenue and Custom,
November 2005**